

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13247 of Lawrence E. and Patricia Waldorf, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from a beauty salon, first floor, to an office, first floor, in an R-4 District at the premises 722 E Street, N. E., (Square 892, Lot 60).

HEARING DATE; June 11, 1980
DECISION DATE: July 2, 1980

FINDINGS OF FACT:

1. The subject site is located at the northeast corner of the intersection of E and 8th Streets, N. E. and is known as premises 722 E Street, N. E. It is in an R-4 District.
2. The site is rectangular in shape and consists of 963.5 square feet of land area. The site is improved with a two-story and basement masonry semi-detached structure. The basement is used as a bookkeeping office. The first floor is vacant. The second floor is rented as an apartment.
3. There are two entrances which face 8th Street on the basement level and an entrance on the first floor on the E Street side. Residentially zoned and developed properties abut the subject premises on its north and west sides, and there are residentially zoned and developed properties across E Street and 8th Street to the east and south of the premises. There are several non-conforming uses, including a liquor store, funeral home, barber shop and grocery store located to the north of the subject premises. These uses are all more than 300 feet removed from the subject premises and are located around the intersection of F Street and 8th Street, approximately 800 feet away.
4. The subject premises was built about 1909 as a single family dwelling. Certificate of Occupancy No. B-35361 was issued May 15, 1962, for beauty salon on the first floor of the subject premises. Certificate of Occupancy No. B-76962 was issued April 15, 1971, authorizing the basement use of the subject premises as a restaurant seating seventy-five persons.

On September 5, 1979, the BZA granted application No. 12932 to the subject applicant for a special exception to change a non-conforming use from restaurant to bookkeeping office in the basement.

5. The applicant proposes to use the first floor of the subject premises as a bookkeeping office as an extension of the business conducted in the basement. The first floor has four rooms. The entry room would have two desks and two walls of filing cases. The middle room would be a conference room. A small room to the left would be used as an employee's relaxation room. A small back room would provide one private office.

6. The applicant proposes to add two bookkeepers to the present staff.

7. The applicant testified that the subject business utilizes the Metro for its deliveries and appointments; the delivery car is rarely parked on the street and one employee only drives to work. The Board finds that the proposed use is of a less intense nature than that of a beauty salon.

8. The Board notes that at the time BZA Application No. 12932 was heard the subject property was in a state of disrepair. The property has since been rehabilitated and blends in with the row houses to its west.

9. A non-conforming use may be changed, with the Board's permission, to a use which is permitted in the most restrictive district in which the existing non-conforming use is permitted. A beauty salon and bookkeeping office are first permitted as a matter of right in a C-1 District.

10. The Office of Planning and Development, by report dated June 6, 1980, recommended that the application be approved with conditions. In its report the OPD noted that although the non-conforming bookkeeping office use of the subject premises basement level is not a neighborhood facility, it was OPD's opinion that its extension into the first floor of the premises will be no more intense than its present permitted non-conforming use as a beauty parlor. However, to assure the proposed use will not effect adversely the present character or future development of the neighborhood, specifically the E Street frontages, OPD proposed that the following conditions of approval be imposed:

1) That the principal entrance to the bookkeeping business be limited to the basement level.

2) That the first floor entrance be used by the second floor tenant only, except for emergency or for the delivery of goods and services to all floors and

3) That any signs advertising the commercial use be located only on the basement level. The Board so finds.

11. The Capitol Hill Restoration Society, by letter of June 9, 1980, recommended that the application be denied. The Capitol Hill Restoration Society noted that when it gave its approval in BZA Application No. 12932 it was conditioned that the bookkeeping office not be expanded and that the first and second floors be used for residential purposes. The C.H. R.S. alleged that the beauty salon use terminated in 1976 and since that time the first and second floors were used as a matter-of-right as a rooming house notwithstanding a Certificate of Occupancy was never obtained. Accordingly, the C.H.R.S., asserts that the applicant should be seeking a variance from the use provisions. In reply, the Board finds there is no probative evidence of record that the beauty parlor use was abandoned.

12. ANC-6A, by letter of June 11, 1980, advised that on June 5, 1980 the ANC voted unanimously to approve the application. ANC reported that after consultation with the residents in the immediate area of the subject property ANC ascertained no objections to the application. The Board concurs.

CONCLUSIONS OF LAW:

Based on the record the Board concludes that the applicant is seeking a special exception which requires a showing that the applicant has complied with the requirements of Sub-section 7104.2 of the Zoning Regulations. The Board concludes

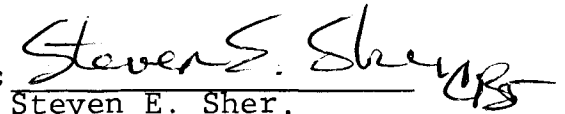
that the applicant has substantially complied with the requirements for a special exception pursuant to sub-section 8207.2 and 7104.2 of the Zoning Regulations in that the proposed use will be in harmony with the general purpose and intent of the Zoning Regulations. The Board also concludes that while the proposed office is not a neighborhood facility it is a less intense use and it will not tend to affect adversely the use of neighboring property and will not be objectionable. The Board notes that the proposed use is permitted in the most restrictive district in which the existing use is permitted. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. There shall be a maximum of FIVE EMPLOYEES.
2. The entrance to the office shall be from 8th Street only.
3. The use is limited to this applicant only, namely Lawrence E. and Patricia Waldorf.

VOTE: 4-0 (Charles R. Norris, Connie Fortune, Leonard L. McCants & William F. McIntosh to grant, Ruby B. McZier not voting, not having heard the case).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


Steven E. Sher,
Executive Director

FINAL DATE OF ORDER: 25 AUG 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.